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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)
)

MANOLITO SOSA BUENDIA, M.D.)
)

File No. 17-2000-106426

Physician's and Surgeon's)
Certificate No. A 53451)
)

Respondent.)
)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 31, 2002.

IT IS SO ORDERED October 1, 2002.

MEDICAL BOARD OF CALIFORNIA

By: Lorie G. Rice
Lorie G. Rice, Chair
Panel A
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 DIANE M. L. TAN, State Bar No. 86571
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-8764
5 Facsimile: (213) 897-1071
6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **MANOLITO SOSA BUENDIA, M.D.**
24446 W. Valencia Boulevard, #7103
Valencia, California 91355

15 Physician and Surgeon's
Certificate No. A 53451,

16
17 Respondent.

Case No. 17-2000-106426

OAH No. L-2001070547

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties in
20 the above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Complainant, Ron Joseph, is the Executive Director of the Medical Board
23 of California, and has brought this action solely in his official capacity. Complainant is
24 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
25 Diane M. L. Tan, Deputy Attorney General.

26 2. Respondent, Manolito Sosa Buendia, M.D. ("respondent"), is represented
27 in this matter by Angelyn Gates, Attorney at Law, whose address is as follows: 1107 Fair Oaks
28 Avenue, No. 511, South Pasadena, California 91030.

1 3. On or about August 24, 1994, the Medical Board of California issued
2 Physician and Surgeon's Certificate No. A 53451 to Manolito Sosa Buendia, M.D. At all times
3 relevant to the charges in this matter, respondent's Physician and Surgeon's Certificate has been
4 valid. His license to practice medicine in California has an expiration date of January 31, 2004,
5 unless such license is renewed.

6 **JURISDICTION**

7 4. The Accusation in Case No. 17-2000-106426, was filed with the Division
8 of Medical Quality ("the Division"), Medical Board of California, Department of Consumer
9 Affairs, State of California, on June 5, 2001. This matter is currently pending against
10 respondent. The Accusation and all other statutorily required documents were duly served on
11 respondent on June 5, 2001. On or about June 30, 2001, respondent filed a Notice of Defense
12 contesting the Accusation. A copy of the Accusation in Case No. 17-2000-106426 is attached
13 hereto as "Exhibit 1" and incorporated herein by reference.

14 **ADVISEMENT AND WAIVERS**

15 5. Respondent has carefully read and discussed with his counsel the nature of
16 the charges and allegations in the Accusation and the effects of this Stipulated Settlement and
17 Disciplinary Order.

18 6. Respondent is fully aware of his legal rights in this matter, including the
19 right to a hearing on the charges and allegations set forth in the Accusation; the right to consult
20 with and be represented by counsel at his own expense; the right to confront and cross-examine
21 the witnesses testifying against him; the right to present evidence and to testify on his own
22 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
23 production of documents and other things in his defense and as proof of mitigation; the right to
24 reconsideration and court review of an adverse decision; and all other rights accorded by the
25 California Administrative Procedure Act (Gov. Code, §§ 11340 et seq., 11370 et seq., 11400 et
26 seq., and 11500 et seq.) and other applicable laws.

27 7. Respondent voluntarily, knowingly and intelligently waives and gives up
28 each and every right as stated above.

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1 stipulation.

2 14. In consideration of the foregoing admissions and stipulations, the parties
3 agree that the Division shall, without further notice or formal proceeding, issue and enter the
4 following Disciplinary Order:

5 **DISCIPLINARY ORDER**

6 **IT IS HEREBY ORDERED** that Physician and Surgeon's Certificate Number
7 A 53451 issued to Respondent Manolito Sosa Buendia, M.D., is revoked. However, the
8 revocation of that license is stayed and respondent is placed on probation for a period of seven
9 (7) years and shall be required to comply with the following terms and conditions.

10 Within fifteen (15) days after the effective date of the Division of Medical
11 Quality's Decision in this matter ("the Division's Decision"), respondent shall provide the
12 Division or its designee with proof of service that shows that respondent has served a true copy
13 of the Division's Decision on the Chief of Staff or the Chief Executive Officer at every hospital
14 where privileges or membership are extended to respondent or at any other facility where
15 respondent engages in the practice of medicine and on the Chief Executive Officer at every
16 insurance carrier where malpractice insurance coverage is extended to respondent.

17 1. **SUSPENSION.** As part of probation, respondent is suspended from the
18 practice of medicine for forty-five (45) days beginning on the sixteenth (16th) day after the
19 effective date of the Division's Decision.

20 2. **PACE PROGRAM.** Within one hundred twenty (120) days from the
21 effective date of the Division's Decision, respondent shall enroll at his own expense in the
22 Physician Assessment and Clinical Education Program at the University of California, San
23 Diego, School of Medicine ("the PACE Program"). The PACE Program consists of the
24 Comprehensive Assessment Program. The Comprehensive Assessment Program is comprised of
25 two mandatory components: Phase 1 and Phase 2.

26 Phase 1 is a two-day program that includes assessment of physical and mental
27 health; neurological performance; basic clinical and communication skills common to all
28 clinicians; and medical knowledge, skill and judgment pertaining to the speciality or sub-

1 speciality of respondent. After the results of Phase 1 are reviewed by the PACE Program staff or
2 its designee, respondent shall complete Phase 2.

3 Phase 2 consists of five (5) days (i.e., 40 hours) of Clinical Education in
4 respondent's field of speciality. The specific curriculum of Phase 2 is designed by the PACE
5 Faculty and the Department or Division of respondent's speciality. Data obtained from Phase 1
6 may be utilized in designing the specific curriculum of Phase 2.

7 After respondent has completed Phase 1 and Phase 2, the PACE Evaluation
8 Committee will review all results and make a recommendation to the Division or its designee to
9 determine whether further education, clinical training (including scope and length), treatment of
10 any medical and/or psychological condition, and any other matters affecting respondent's practice
11 of medicine will be required or recommended. The Division or its designee may request, at any
12 time, information from PACE regarding respondent's participation in PACE and/or information
13 derived therefrom. The Division may order respondent to undergo additional education, medical
14 and/or psychological treatment based upon the recommendation received from PACE.

15 Upon approval of the recommendation by the Division or its designee, respondent
16 shall undertake and complete the recommended and approved PACE Program. When respondent
17 has completed the PACE Program, respondent shall submit to an examination on its contents and
18 substance. The examination shall be designed and administered by the PACE Program faculty.
19 Respondent shall not be deemed to have successfully completed the program unless he passes the
20 examination. Respondent and Complainant agree that the determination of the PACE Program
21 faculty as to whether or not respondent has passed the examination and/or successfully
22 completed the PACE Program shall be binding upon the parties.

23 If the PACE Evaluation Committee or its designee recommends that respondent
24 undergo medical treatment and/or psychotherapy, respondent shall within 30 days of such
25 recommendation submit to the Division or its designee for its approval the name and
26 qualifications of a physician and/or psychotherapist of respondent's choice. Respondent shall
27 undergo and continue medical treatment and/or psychotherapy until further notice in writing
28 from the Division or its designee. Respondent shall have the physician and/or psychotherapist

1 submit quarterly status reports to the Division or its designee indicating whether respondent is
2 capable of practicing medicine safely.

3 Except for any treatment recommended by the PACE Evaluation Committee or its
4 designee, respondent shall complete the PACE Program no later than six (6) months after his
5 initial enrollment in the PACE Program unless the Division or its designee agrees in writing to
6 an extended period of time for completion of that program.

7 If respondent successfully completes the PACE Program, including the
8 examination referenced above, he shall request the PACE Program representatives to forward a
9 Certification of Successful Completion of the PACE Program to the Division or its designee.

10 If respondent fails to successfully complete the PACE Program within the time
11 limits set forth above, he shall be suspended from the practice of medicine until the Division's
12 determination regarding such matter is final.

13 Failure by respondent to participate in or successfully to complete the entire
14 PACE Program as specified above shall constitute a violation of probation and unprofessional
15 conduct for purposes of disciplinary proceedings. The report of the PACE program faculty
16 which sets forth its determination that respondent has not successfully completed the program,
17 shall be admissible as direct evidence in any subsequent disciplinary and/or interim proceeding
18 against respondent and shall be considered with other relevant evidence in making a final
19 determination in such matter.

20 3. **MONITORING OF PRACTICE.** Within thirty (30) days from the
21 effective date of the Division's Decision, respondent shall submit to the Division or its designee
22 for its prior approval, the name and qualifications of one or more licensed physicians and
23 surgeons whose licenses are valid and not subject to any disciplinary action and have agreed to
24 serve as respondent's monitor of his practice of medicine. The practice monitor also shall have
25 no prior or current business or personal relationship with respondent.

26 The practice monitor shall be involved in the same field of practice in which
27 respondent is involved, shall have fully read the Accusation and the Division's Decision,
28 including the Stipulated Settlement and Disciplinary Order in this matter, and fully understand

1 his or her role as practice monitor. Within that 30-day period, the practice monitor shall submit
2 to the Division or its designee a plan in which respondent's practice shall be monitored. That
3 plan must be approved by the Division or its designee and shall be subject to any changes or
4 modifications which the Division or its designee deems necessary.

5 The practice monitor shall provide periodic written reports to the Division or its
6 designee by providing an evaluation of respondent's performance, indicating whether
7 respondent's practices are within the standards of practice of medicine, whether he is capable of
8 practicing medicine safely, and providing any other necessary information requested by the
9 Division or its designee. It shall be respondent's responsibility to ensure that the practice monitor
10 files the periodic written reports with the Division or its designee.

11 Respondent shall provide to the practice monitor access to respondent's patient
12 records and such monitor shall be permitted to make direct contact with any patients treated or
13 cared for by respondent. Respondent shall execute a release authorizing the monitor to provide
14 to the Division or its designee any relevant information that it may request.

15 Respondent shall notify all current and potential patients of any term or condition
16 of probation which will affect their treatment or the confidentiality of their records. That
17 notification shall be signed and dated by each patient prior to the commencement or continuation
18 of any examination or treatment of each patient by respondent and a copy of such notification
19 shall be maintained in each patient's files. The notifications signed by respondent's patients
20 shall be subject to inspection and copying by the Division or its designee at any time during the
21 period of probation.

22 If the practice monitor resigns or is no longer available, respondent shall within
23 fifteen (15) days of such resignation or unavailability, submit a written request to the Division or
24 its designee to have a new monitor appointed through nomination by respondent and approval by
25 the Division or its designee.

26 Respondent shall pay for all monitoring costs.

27 4. **RECORD KEEPING COURSE.** Within ninety (90) days from the
28 effective date of the Division's Decision, respondent shall enroll at his own expense in a course

1 in Record Keeping approved in advance by the Division or its designee.

2 Respondent shall successfully complete the Division-approved Record Keeping
3 course within six (6) months from the effective date of the Division's Decision or within an
4 extended period of time for compliance that is approved in writing by the Division or its
5 designee. Respondent shall submit to the Division and Complainant's counsel written
6 confirmation of his successful completion of such course.

7 If respondent fails to successfully complete a Division-approved Record Keeping
8 course within the time period specified above, such failure shall constitute a violation of
9 probation.

10 5. **ETHICS COURSE.** Within ninety (90) days from the effective date of
11 the Division's Decision, respondent shall enroll at his own expense in a course in Ethics
12 approved in advance by the Division or its designee, and shall successfully complete the course
13 within six (6) months after his enrollment in that course.

14 If respondent fails to successfully complete a Division-approved Ethics course
15 within the time period specified above, such failure shall constitute a violation of probation.

16 6. **EDUCATIONAL COURSES.** Within ninety (90) days from the
17 effective date of the Division's Decision, and by that date each subsequent year of probation
18 thereafter, respondent shall submit to the Division or its designee for its prior approval, an
19 educational program or courses, as determined by the Division or its designee, which shall not be
20 less than 20 hours per year, for each year of probation. This program or courses shall be in
21 addition to the Continuing Medical Education requirements for re-licensure. Respondent shall
22 pay for such program or courses. Following the completion of each course, the Division or its
23 designee may administer an examination to test respondent's knowledge of the course. During
24 each year of probation, respondent shall provide written proof of attendance of 20 hours of
25 preapproved continuing medical education in satisfaction of this condition.

26 If respondent fails to comply with this probation condition as specified above,
27 such failure shall constitute a violation of probation.

28 7. **COMMUNITY SERVICES--FREE SERVICES.** Within sixty (60)

1 days from the effective date of the Division's Decision, respondent shall submit to the Division
2 or its designee for its prior approval a community service program in which respondent shall
3 provide free nonmedical community services. Respondent shall provide such services on a
4 regular basis to a community or charitable facility or agency for at least 40 hours each year
5 during the first three (3) years of probation following the Division's approval of the community
6 service program selected by respondent. Respondent shall be required to obtain the approval of
7 the Division or its designee prior to the commencement of another or revised community service
8 program.

9 8. **MONITORING OF BILLING PRACTICES.** Within thirty (30) days
10 from the effective date of the Division's Decision, respondent shall submit to the Division or its
11 designee for its prior approval, the name and qualifications of one or more licensed physicians
12 and surgeons whose licenses are valid and not subject to any disciplinary action and have agreed
13 to serve as respondent's monitor of his billing practices. The billing practice monitor also shall
14 have no prior or current business or personal relationship with respondent.

15 The billing practice monitor shall be involved in the same field of practice in
16 which respondent is involved, shall have fully read the Accusation and the Division's Decision,
17 including the Stipulated Settlement and Disciplinary Order in this matter, and fully understand
18 his or her role as respondent's billing practice monitor. Within that 30-day period, the billing
19 practice monitor shall submit to the Division or its designee a plan in which respondent's billing
20 practices shall be monitored. That plan must be approved by the Division or its designee and
21 shall be subject to any changes or modifications which the Division or its designee deems
22 necessary.

23 The billing practice monitor shall provide periodic written reports to the Division
24 or its designee providing an evaluation of respondent's performance, indicating whether
25 respondent's billing practices are within the standards of practice with regard to billing for
26 medical services rendered, and providing any other necessary information requested by the
27 Division or its designee. It shall be respondent's responsibility to ensure that the billing practice
28 monitor files the periodic written reports with the Division or its designee.

1 Respondent shall provide access of respondent's patient records to the billing
2 practice monitor and such monitor shall be permitted to make direct contact with any patients
3 treated or cared for by respondent. Respondent shall execute a release authorizing the monitor to
4 provide to the Division or its designee any relevant information that it may request.

5 Respondent shall notify all current and potential patients of any term or condition
6 of probation which will affect their treatment or the confidentiality of their records. That
7 notification shall be signed and dated by each patient prior to the commencement or continuation
8 of any examination or treatment of each patient by respondent and a copy of such notification
9 shall be maintained in each patient's files. The notifications signed by respondent's patients shall
10 be subject to inspection and copying by the Division or its designee at any time during the period
11 of probation.

12 If the billing practice monitor resigns or is no longer available, respondent shall
13 within fifteen (15) days of such resignation or unavailability, submit a request to the Division or
14 its designee to have a new billing practice monitor appointed through nomination by respondent
15 and approval by the Division or its designee.

16 Respondent shall pay for all monitoring costs.

17 9. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local
18 laws, and all laws, rules and regulations governing the practice of medicine in California.
19 Respondent also shall remain in full compliance with any court ordered criminal probation,
20 payments and other orders.

21 10. **QUARTERLY REPORTS.** Respondent shall submit quarterly
22 declarations under penalty of perjury on forms provided by the Division or its designee, stating
23 whether there has been compliance with all the conditions of probation.

24 11. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE.**
25 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
26 at all times, keep the Division informed of his business address and address of residence, both of
27 which shall serve as respondent's addresses of record. Any changes of such addresses shall be
28 immediately communicated in writing to the Division and his probation surveillance monitor.

1 Under no circumstances shall a post office box serve as an address of record, except as allowed
2 by Business and Professions Code section 2021, subdivision (b) or any related statutes.

3 During the entire period of respondent's probation, respondent shall maintain, at
4 all times, a current and renewed physician and surgeon's license.

5 Respondent also shall immediately inform the Division and his probation
6 surveillance monitor, in writing, of any travel to any areas outside the jurisdiction of California
7 which lasts, or is contemplated to last, more than thirty (30) days.

8 12. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS**
9 **DESIGNATED PHYSICIAN(S)**. Respondent shall appear in person for interviews with the
10 Division, its designee or its designated physician(s) upon request at various intervals and with
11 reasonable notice.

12 13. **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR**
13 **IN-STATE NON-PRACTICE**. In the event respondent should leave California to reside or to
14 practice outside of this State or for any reason should respondent stop practicing medicine in
15 California, respondent shall notify the Division or its designee in writing within ten (10) days of
16 the dates of departure and return or the dates of non-practice within California. Non-practice is
17 defined as any period of time exceeding thirty (30) days in which respondent is not engaging in
18 any activities defined in sections 2051, 2052 and 2053 of the Business and Professions Code or
19 such related statutes.

20 All time spent in an intensive training program approved by the Division or its
21 designee shall be considered as time spent in the practice of medicine. A Division-ordered
22 suspension of practice shall not be considered as a period of non-practice. Periods of temporary
23 or permanent residence or practice outside California or of non-practice within California, as
24 defined in this condition, will not apply to the reduction of the probationary period.

25 14. **COST RECOVERY**. Respondent is hereby ordered to reimburse the
26 Division the amount of Three Thousand Dollars (\$3,000.00) for the costs of the investigation and
27 prosecution of the above-entitled matter. Such amount shall be paid within a one (1) year period
28 with quarterly payments as follows:

1 Within ninety (90) days from the effective date of the Division's Decision,
2 respondent shall pay his first quarterly payment of \$750.00 to the Division. Thereafter,
3 respondent shall pay to the Division the amount of \$750.00 each and every three months on the
4 due date of each quarterly report as required in the Division's Disciplinary Order until the total
5 amount of \$3,000.00 is paid in full.

6 The payment of these costs by respondent is not tolled by his practice or residency
7 outside of California. Failure by respondent to reimburse the Division for its investigation and
8 prosecution costs according to this probation condition shall constitute a violation of probation,
9 unless the Division or its designee agrees in writing to payment by a revised installment plan
10 because of financial hardship.

11 The filing of bankruptcy by the respondent shall not relieve the respondent of his
12 responsibility to reimburse the Division for its investigation and prosecution costs.

13 15. **PROBATION MONITORING COSTS.** Respondent shall pay the
14 costs associated with probation monitoring each and every year of probation, as designated by
15 the Division, which are currently set at \$2,488.00, but may be adjusted on an annual basis. Such
16 costs shall be payable to the Division of Medical Quality no later than January 31 of each
17 calendar year. Failure to pay such costs within thirty (30) days of the due date shall constitute a
18 violation of probation.

19 16. **VIOLATION OF PROBATION.** If respondent violates probation in
20 any respect, the Division, after giving respondent notice and the opportunity to be heard, may
21 revoke probation and carry out the disciplinary order that was stayed.

22 If an accusation or petition to revoke probation is filed against respondent during
23 probation, the Division shall have continuing jurisdiction until the matter is final, and the period
24 of probation shall be extended until the matter is final.

25 No petition for modification or termination of probation or any reduction in the
26 period for compliance with any of these probation conditions shall be considered while there is
27 an accusation, petition to revoke probation or any other disciplinary proceeding pending against
28 respondent.

17. **LICENSE SURRENDER.** Following the effective date of the Division's Decision, if respondent ceases practicing medicine due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily surrender his Physician and Surgeon's Certificate to the Medical Board of California. The Division reserves the right to evaluate the respondent's request and to exercise its discretion as to whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrendered license, respondent will no longer be subject to the terms and conditions of probation.

18. **COMPLETION OF PROBATION.** Upon successful completion of probation, respondent's Physician and Surgeon's Certificate shall be fully restored.

ACCEPTANCE

I, Manolito Sosa Buendia, M.D., have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed the terms and conditions and other matters contained therein with my attorney, Angelyn Gates. I understand the effect that this stipulation will have on my Physician and Surgeon's Certificate.

I enter into this Stipulated Settlement voluntarily, knowingly and intelligently and agree to be bound by the Disciplinary Order and Decision of the Division of Medical Quality, Medical Board of California. I further agree that a facsimile copy of this Stipulated Settlement and Disciplinary Order, including facsimile copies of the signatures in this stipulation, may be used with the same force and effect as the original of this Stipulated Settlement and Disciplinary Order.


DATED: 6-21-02

Mr. Buendia
MANOLITO SOSA BUENDIA, M.D.
Respondent

1 **CONCURRENCE**

2 I have read and fully discussed with Respondent Manolito Sosa Buendia, M.D.,
3 the terms and conditions and other matters contained in the above Stipulated Settlement and
4 Disciplinary Order. I approve the form and content of such stipulation.

5 DATED: 6-3-02

6
7 
8 ANGELYN GATES
9 Attorney at Law

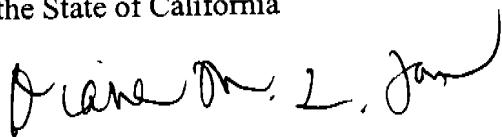
10 Attorney for Respondent

11 **ENDORSEMENT**

12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration by the Division of Medical Quality, Medical Board of California,
14 Department of Consumer Affairs, State of California.

15 DATED: July 29, 2002

16
17 BILL LOCKYER, Attorney General
18 of the State of California

19 
20 DIANE M. L. TAN
21 Deputy Attorney General

22 Attorneys for Complainant
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Exhibit 1

Accusation

Case No. 17-2000-106426

BILL LOCKYER, Attorney General
of the State of California
KAREN B. CHAPPELLE, State Bar No. 141267
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Attorneys for Complainant

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 17-2000-106426

**MANOLITO SOSA BUENDIA M.D.
24446 W. Valencia Boulevard #7103
Valencia, California 91355**

A C C U S A T I O N

Physician's and Surgeon's Certificate No. A 53451

Respondent.

Complainant alleges:

PARTIES

1. Ron Joseph ("Complainant") brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about August 24, 1994, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 53451 to Manolito Sosa Buendia M.D. ("Respondent").

The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2002, unless renewed.

JURISDICTION

3. This Accusation is brought before the Division of Medical Quality, Medical Board of California ("Division"), under the authority of the following sections of the Business and Professions Code ("Code").

1 4. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
3 one year, placed on probation and required to pay the costs of probation monitoring, or such
4 other action taken in relation to discipline as the Division deems proper.

5 5. Section 2234 of the Code states:
6 “The Division of Medical Quality shall take action against any licensee who is charged with
7 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct
8 includes, but is not limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or
10 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter 5, the
11 Medical Practice Act].

12 “(b) Gross negligence.

13 “(c) Repeated negligent acts.

14 “(d) Incompetence.

15 “(e) The commission of any act involving dishonesty or corruption which is
16 substantially related to the qualifications, functions, or duties of a physician and surgeon.

17 “(f) Any action or conduct which would have warranted the denial of a
18 certificate.”

19 **Reimbursement of Medi-Cal Claims**

20 6. Section 14124.12 of the Welfare and Institutions Code states, in pertinent part:

21 “(a) Upon receipt of written notice from the Medical Board of California, the
22 Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a
23 licensee's license has been placed on probation as a result of a disciplinary action, the department
24 may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that
25 gave rise to the probation, including any dental surgery or invasive procedure, that was
26 performed by the licensee on or after the effective date of probation and until the termination of
27 all probationary terms and conditions or until the probationary period has ended, whichever
28 occurs first. This section shall apply except in any case in which the relevant licensing board

1 determines that compelling circumstances warrant the continued reimbursement during the
2 probationary period of any Medi-Cal claim, including any claim for dental services, as so
3 described. In such a case, the department shall continue to reimburse the licensee for all
4 procedures, except for those invasive or surgical procedures for which the licensee was placed on
5 probation."

6 7. Section 725 of the Code states:

7 "Repeated acts of clearly excessive prescribing or administering of drugs or treatment,
8 repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly
9 excessive use of diagnostic or treatment facilities as determined by the standard of the
10 community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist,
11 psychologist, physical therapist, chiropractor, or optometrist. However, pursuant to Section
12 2241.5, no physician and surgeon in compliance with the California Intractable Pain Treatment
13 Act shall be subject to disciplinary action for lawfully prescribing or administering controlled
14 substances in the course of treatment of a person for intractable pain."

15 8. Section 125.3 of the Code provides, in pertinent part, that the Division may
16 request the administrative law judge to direct a licensee found to have committed a violation or
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
18 and enforcement of the case.

19 **FIRST CAUSE FOR DISCIPLINE**

20 (Gross Negligence)

21 9. Respondent MANOLITO SOSA BUENDIA M.D. is subject to disciplinary action
22 under section 2234, subdivision (b) of the Business and Professions code in that his care
23 management and treatment of patients P.W., and A.M. constitute acts of gross negligence. The
24 circumstances are as follows:

25 **(Patient P.W).**

26 a. On or about June 24, 1999, 75 year-old patient P.W. saw respondent for
27 complaints of arthritis, urinary incontinence, nocturia, intermittent shortness of breath and left
28 sided chest burning. Respondent diagnosed P.W. with angina inactive.

1 b. Respondent ordered vasospec studies; spirometry, EKG, and nerve
2 conduction studies.

3 c. The lab results indicated abnormal PFT's, non specific EKG changes,
4 anemia, and vasospec test with computer printout "abnormal venous flow pattern."

5 d. No follow up was arranged for P.W. to return.

6 The following acts, singularly and collectively constitute extreme departures from the standard of
7 care:

8 e. Respondent's failure to obtain old medical records, and arrange for follow
9 up with P.W. regarding his angina pectoris or anemia.

10 f. Respondent's failure to refer P.W. to a cardiologist for evaluation.

11 g. Respondent's ordering of incontinence supplies without any workup of
12 P.W., no diagnosis of the underlying cause, and no referral for specialty evaluation.

13 **(Patient A.M.)**

14 h. On or about March 13, 1999, 70 year old female patient A.M. saw
15 respondent with complaints of multiple joint pains, urinary incontinence and bilateral swelling
16 for seven months; shortness of breath, chest pain and shortness of breath on the day of her
17 examination.

18 i. Respondent diagnosed A.M with polymyalgia rheumaatica, soteoporosis;
19 postural edema, and acute costo chondritis.

20 j. Respondent ordered vasospec studies; spirometry, EKG, and nerve
21 conduction studies.

22 k. Respondent treated A.M. with salsalate, cimetidine, tylenor with codeine,
23 and advised to return if she had persistent or severe symptoms. No urinalysis or urologic
24 referral was requested.

25 The following acts, singularly and collectively constitute extreme departures from the
26 standard of care:

27 1. Respondent's failure to order old records for A.M.;

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- 1 m. Respondent's failure to initiate workup on the urinary incontinence or
2 chest pain complaints of A.M.;
- 3 n. Respondent's failure to order any blood work or lab tests for A.M.,
- 4 o. Respondent's failure to refer A.M. for appropriate specialty evaluation, or
5 to arrange for follow-up or to diagnose her underlying condition, and
- 6 p. Respondent's ordering of urinary incontinence supplies without any
7 workup for urinalysis or urologic workup and;
- 8 q. Respondent's inability to perform or interpret vasospasm or pulmonary
9 function tests.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Repeated Negligent Acts)

12 10. Respondent is subject to disciplinary action under section 2234, subdivision (c) of
13 the Business and Professions code in that his care management and treatment of patients P.W.
14 and A.M. constitute repeated acts of negligence. The circumstances are as follows:

15 a. Complainant refers to, and by this reference, incorporates the allegations
16 contained in paragraph 9, subparagraphs (a) through (q), inclusive, above, as though set forth
17 fully.

18 **THIRD CAUSE FOR DISCIPLINE**

19 (Incompetence)

20 11. Respondent is subject to disciplinary action under section 2234, subdivision (d) in
21 that respondent demonstrated a lack of knowledge or inability to discharge the duties and
22 responsibilities of his license in the care, management and treatment of patients P.W and A.M..
23 The circumstances are as follows:

24 a. Complainant refers to, and by this reference, incorporates the allegations
25 contained in paragraph 9, subparagraphs (a) through (q), inclusive, above, as though set forth
26 fully.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Excessive Diagnostic Testing)

3 12. Respondent is subject to disciplinary action under section 725 of the Business and
4 Professions Code in that his conduct of ordering the tests for patients P. W. and A.M.
5 demonstrates repeated acts of excessive diagnostic testing. The circumstances are as follows:

6 a. Complainant refers to, and by this reference, incorporates the allegations
7 contained in paragraph 9, subparagraphs (a) through (q), inclusive, above, as though set forth
8 fully.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct)

11 13. Respondent is subject to disciplinary action under section 2234 of the Business
12 and Professions Code in that his conduct in the care, management, and treatment of patients
13 P. W. and A.M. demonstrates unprofessional conduct. The circumstances are as follows:

14 a. Complainant refers to, and by this reference, incorporates the allegations
15 contained in paragraph 9, subparagraphs (a) through (q), inclusive, above, as though set forth
16 fully.

17 **PRAYER**

18 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Division of Medical Quality issue a decision:

20 1. Revoking or suspending Physician's and Surgeon's Certificate Number A53451,
21 issued to MANOLITO SOSA BUENDIA M.D.

22 2. Revoking, suspending or denying approval of MANOLITO SOSA BUENDIA,
23 M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

24 3. Ordering MANOLITO SOSA BUENDIA, M.D. to pay the Division of Medical
25 Quality the reasonable costs of the investigation and enforcement of this case, and, if placed on
26 probation, the costs of probation monitoring;


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4. Taking such other and further action as deemed necessary and proper.

DATED: June 5, 2001



RON JOSEPH
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant